

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
4 State Bar No. 101336  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-624**

12 **NICOLE LEE-CATTRON BREADON**  
13 **2025 Euclid Avenue**  
14 **El Cajon, CA 92019**

**A C C U S A T I O N**

15 **Registered Nurse License No. 722434**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs.

23 2. On or about March 10, 2008, the Board of Registered Nursing issued Registered  
24 Nurse License Number 722434 to Nicole Lee-Cattron Breadon (Respondent). The Registered  
25 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on February 29, 2012, unless renewed.

27 ///

28 ///

1 JURISDICTION

2 3. This Accusation is brought before the Board of Registered Nursing (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2750 of the Business and Professions Code ("Code") provides that the Board  
6 may discipline any licensee, including a licensee holding a temporary or an inactive license, for  
7 any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

8 5. Section 2764 of the Code provides that the expiration of a license shall not deprive  
9 the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to  
10 render a decision imposing discipline on the license. Under section 2811, subdivision (b), an  
11 expired license may be renewed at any time within eight years after expiration.

12 STATUTORY PROVISIONS

13 6. Section 482 of the Code states:

14 "Each board under the provisions of this code shall develop criteria to evaluate the  
15 rehabilitation of a person when:

16 "(a) Considering the denial of a license by the board under Section 480; or

17 "(b) Considering suspension or revocation of a license under Section 490.

18 "Each board shall take into account all competent evidence of rehabilitation furnished by  
19 the applicant or licensee."

20 7. Section 490 of the Code provides that a board may suspend or revoke a license on the  
21 ground that the licensee has been convicted of a crime substantially related to the qualifications,  
22 functions, or duties of the business or profession for which the license was issued..

23 8. Section 493 of the Code states:

24 "Notwithstanding any other provision of law, in a proceeding conducted by a board within  
25 the department pursuant to law to deny an application for a license or to suspend or revoke a  
26 license or otherwise take disciplinary action against a person who holds a license, upon the  
27 ground that the applicant or the licensee has been convicted of a crime substantially related to the  
28 qualifications, functions, and duties of the licensee in question, the record of conviction of the

1 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
2 and the board may inquire into the circumstances surrounding the commission of the crime in  
3 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
4 qualifications, functions, and duties of the licensee in question.

5 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
6 'registration.'"

7 9. Section 2761 of the Code states:

8 "The board may take disciplinary action against a certified or licensed nurse or deny an  
9 application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the following:

11 "...

12 (f) Conviction of a felony or of any offense substantially related to the qualifications,  
13 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
14 conclusive evidence thereof."

15 "..."

16 10. Section 2762 of the Code states:

17 "In addition to other acts constituting unprofessional conduct within the meaning of this  
18 chapter it is unprofessional conduct for a person licensed under this chapter to do any of the  
19 following:

20 "...

21 "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
22 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
23 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
24 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
25 ability to conduct with safety to the public the practice authorized by his or her license.

26 "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-  
27 administration of any of the substances described in subdivisions (a) and (b) of this section, or the  
28

1 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)  
2 of this section, in which event the record of the conviction is conclusive evidence thereof.”

### 3 REGULATIONS

4 11. California Code of Regulations, title 16, section 1444, states:

5 “A conviction or act shall be considered to be substantially related to the qualifications,  
6 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
7 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
8 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

9 “(a) Assaultive or abusive conduct including, but not limited to, those violations listed in  
10 subdivision (d) of Penal Code Section 11160.

11 “(b) Failure to comply with any mandatory reporting requirements.

12 “(c) Theft, dishonesty, fraud, or deceit.

13 “(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the  
14 Penal Code.”

15 12. California Code of Regulations, title 16, section 1445 states:

16 “: ...

17 “(b) When considering the suspension or revocation of a license on the grounds that a  
18 registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such  
19 person and his/her eligibility for a license will consider the following criteria:

20 “(1) Nature and severity of the act(s) or offense(s).

21 “(2) Total criminal record.

22 “(3) The time that has elapsed since commission of the act(s) or offense(s).

23 “(4) Whether the licensee has complied with any terms of parole, probation, restitution or  
24 any other sanctions lawfully imposed against the licensee.

25 “(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the  
26 Penal Code.

27 “(6) Evidence, if any, of rehabilitation submitted by the licensee.”

28 ///

1 COST RECOVERY

2 13. Section 125.3 of the Code provides that the Board may request the administrative law  
3 judge to direct a licentiate found to have committed a violation or violations of the licensing act to  
4 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

5 FIRST CAUSE FOR DISCIPLINE

6 (January 19, 2010, Conviction for DUI on July 6, 2009)

7 14. Respondent is subject to disciplinary action under Code sections 490 and 2761,  
8 subdivision (f), in that Respondent was convicted of a crime substantially related to the  
9 qualifications, functions and duties as a registered nurse. The circumstances are as follows:

10 a. On January 19, 2010, in a criminal proceeding entitled *The People of the State of*  
11 *California v. Nicole Lee Breadon aka Nicole Lee Cattron Breadon* in San Diego County, Superior  
12 Court, Central Division, Case Number M086443. Respondent was convicted by her plea of guilty  
13 for violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol,  
14 a misdemeanor.

15 b. Respondent was granted summary judgment, and was also ordered to violate no law,  
16 pay various fines and fees, complete 10 days in a Public Service Program (with 1 day credit for  
17 time served), obey all Standard Alcohol Conditions, complete a First Conviction Program,  
18 MADD, and not to drive without a valid driver's license and liability insurance.

19 c. The facts that led to the conviction are that on July 6, 2009, Respondent was observed  
20 by two California Highway Patrol (CHP) officers traveling on I-8 eastbound just west of Taylor  
21 Street in San Diego, at a high rate of speed and swerving in and out of the #2 and #3 lanes. The  
22 officers initiated an enforcement stop and the Respondent was instructed to exit the freeway, and  
23 complied exiting at Hotel Circle and entered the Mission Valley Resort parking lot. When  
24 Respondent was approached by the officer and asked to see her driver's license, she stated that  
25 she lost her purse and license earlier in the evening. The officer noted a strong odor of an  
26 alcoholic beverage emitting from within Respondent's vehicle, noted that her eyes were both red

27 ///

1 and watery and that her speech was slurred and rapid. Field sobriety tests were failed by  
2 Respondent. Respondent also agreed to a Preliminary Alcohol Screening (PAS) test with results  
3 of .289 BAC at 0213 hours and .280 at 0215 hours. Respondent was arrested and taken to the  
4 CHP San Diego Area office where she consented to submit to a breath test. The breath test  
5 yielded results of .24 BAC at 0306 and 0308 hours. Respondent was then transported to Las  
6 Colinas where she was booked on the arrest charges.

## 7 **SECOND CAUSE FOR DISCIPLINE**

### 8 **(Using Alcohol to an Extent Dangerous to Self and Others)**

9 15. Respondent's license is subject to discipline under Code section 2762,  
10 subdivision (b), in that Respondent used alcohol to an extent dangerous to herself and others as is  
11 set forth in paragraph 14 above, which is incorporated here by this reference.

## 12 **THIRD CAUSE FOR DISCIPLINE**

### 13 **(Criminal Conviction Involving the Consumption of Alcohol)**

14 16. Respondent's license is subject to discipline under Code section 2762,  
15 subdivision (c), in that Respondent was convicted of a criminal offense involving the  
16 consumption of alcohol as is set forth in paragraph 14 above, which is incorporated here by this  
17 reference.

## 18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
20 and that following the hearing, the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nurse License Number 722434, issued to  
22 Nicole Lee-Cattron Breadon;

23 2. Ordering Nicole Lee-Cattron Breadon to pay the Board of Registered Nursing the  
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
25 Professions Code section 125.3;

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3. Taking such other and further action as deemed necessary and proper.

DATED: 6/3/10

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

SD2010800596  
80465395.doc